IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SEVENTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4585 of 1999

Between:

Md. Shabbir S/o. Md.Basheeruddin,
R/o. Jadcherla, Mahabubnagar District.

..... PETITIONER

AND

The Regional Manager, A.P.S.R.T.C.,
Mahabubnagar Region, Mahabubnagar District.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order or direction more particularly one in the nature of writ of mandamus declaring the Proc.P2/684(2)/98-RM,MBNR, dt:6.10.1998 issued by the 1st respondent as illegal, arbitrary and further direct the respondents to appoint the petitioner as Conductor/any other post on compassionate grounds in the place of his father.

Counsel for the Petitioner: DR.P.B.VIJAY KUMAR

Counsel for the Respondent : MR.V.T.M.PRASAD

The Court made the following :

THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION NO.4585 OF 1999

ORDER:

The petitioner questions the order of the Regional Manager of A.P.State Road Transport Corporation, Mahbubnagar region dated 6.10.1998 in rejecting his case for appointment as conductor under Bread Winner Scheme on the ground that he was minor and his name is not mentioned in the Bus-pass declaration submitted by his father, the deceased employee of the Corporation, on 1.1.1983.

The case of the petitioner is that he is the son of Mohd. Basheeruddin, who worked as a driver in the A.P.State Road Transport Corporation and he died in an accident while he was on duty. The services of his father were removed after conducting domestic enquiry. The father of the petitioner raised an industrial dispute in I.D.No.790 of 1993 on the file of the Labour Court-III Hyderbad, and the Labour Court by its award dated 23.4.1997 held that the charges against the deceased employee are not proved and the order of removal was set aside and directed the Corporation to calculate the services of the deceased driver from the date of suspension till the date of his death as if he is in service and also directed to calculate all the emoluments and attendant benefits and pay the same to the legal

heirs of the deceased employee, and further observed that if any of the legal heir is minor, the proportionate amount of that particular legal heir should be kept in deposit until that minor attains the age of majority. It is stated that the said award has been implemented and there is no grievance.

It is the further case of the petitioner that he is one of the sons of the deceased employee and he made a representation for his appointment on compassionate grounds, as there is no earning member in the family. His request was considered and the respondent authorities conducted interview on 17.6.1998 for the post of conductor, since he possessed requisite qualifications to hold the post of a conductor. But, thereafter the respondents by impugned proceedings dated 6.10.1998 rejected his case on the ground that the name of the petitioner was not mentioned in the bus-pass certificate submitted by his deceased father on 1.1.1983 though the petitioner was aged 9 years at that time. Aggrieved by the same, he filed this writ petition.

The respondent filed counter to the same effect. It is stated that as per the declaration made by the deceased employee on 1.1.1983, the name of the petitioner was not shown though the petitioner was aged 9 years at that time and if the petitioner is one of the legal heirs, his name would have been mentioned in the said bus-pass certificate.

It is contended by the counsel for the petitioner that though the Mandal Revenue Officer, Jadcherla issued a legal heir certificate in L.Dis.J/5661/94, dated 19.10.1994 showing the legal heirs of the deceased Basheeruddin, wherein the name of the petitioner herein is at serial No.5 and his age is shown as 24 years as on 19.10.1994, the respondent-Corporation failed to consider the said aspect.

Merely because the deceased employee has not shown the name of the petitioner in the bus pass declaration on 1.1.1983, it cannot be said that the petitioner is not the legal heir of the deceased-Basheeruddin, inasmuch as the name of the petitioner is mentioned in the Legal Heir Certificate issued by the Mandal Revenue Officer, Jadcherla. Therefore, I am of the view that the respondent ought to have considered the Legal Heir Certificate dated 19.10.1994 issued by the Mandal Revenue Officer and passed appropriate orders considering the case of the petitioner for his appointment on compassionate grounds.

Accordingly, the impugned order is set aside and the respondent is directed to consider the case of the petitioner afresh keeping in view the legal heir certificate issued by the Mandal Revenue Officer, Jadcherla, dated. 19.10.1994 and pass appropriate orders thereon, in accordance with law by treating his application within the time as he was interviewed earlier for the post of conductor. However, it is also open for the respondent to verify the genuineness of the legal heir certificate issued by the M.R.O.

With the above observations, the writ petition is disposed of. No costs.

17.11.2004.

mdaa.

Copy to:

1. The Regional Manager, A.P.S.R.T.C.,
   Mahabubnagar Region, Mahabubnagar District.

2. Two C.D.copies.